



# Texas Department of Public Safety Purchase Order

Purchase Order Number

405-16-P009770

SHOW THIS NUMBER ON ALL  
PACKAGES, INVOICES AND  
SHIPPING DOCUMENTS.

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Vendor Number: 00001101  
1460664538100 | FALLOWS INTERNATIONAL, LLC.

2950 TURTLE CREEK DR  
USA  
PORT ARTHUR, TX 77642-8028

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Texas Department of Public Safety  
Warehouse  
108 W Denson  
Austin, TX 78752  
US  
Email: eprocurementshipping@dps.texas.gov  
(512) 424-2000

State Sales Tax Exemption Certificate: The undersigned claims an exemption from taxes under Chapter 20, Title 122A, Revised Civil Statutes of Texas, for purchase of tangible personal property described in this numbered order, purchased from contractor and/or shipper listed above, as this property is being secured for the exclusive use of the State of Texas.

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Texas Department of Public Safety  
Finance - Accounts Payable - MSC 0130  
PO Box 4087  
Austin, TX 78773-0130  
US  
Email: apinvoices@dps.texas.gov  
(512) 424-2060

Solicitation (Bid) No.: 405-16-B002054	Payment Terms: State of Texas Prompt Pay  Shipping Terms: F.O.B., Destination  Delivery Calendar Day(s) A.R.O.: 15
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Item # 2  
Class-Item 420-16  
  
Painted metal dorm twin bed frames PL-308S-750/800, the 38in W x 75in L as per attached IFB Document

Quantity	Unit Price	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Freight	Total Cost
136.00	\$ 228.38	EA	0.00 %	\$ 0.00		\$ 0.00	\$ 2,000.00	\$ 33,059.68

Item # 1

**Change Order:**

Change orders will be allowed only if unforeseen conditions arise such as, but not limited to, increasing or decreasing quantities or if the department needs dictate changes. All changes shall be in the scope of original work. No verbal change orders will be permitted. All change orders must be in writing with a Purchase Order Change Notice (POCN) issued by Procurement & Contract Services.

**E-Verify:**

U.S. Department of Homeland Security E-Verify System

By entering into this Contract, the Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security E-Verify system to determine the eligibility of

1. All persons employed to perform duties within Texas, during the term of the Contract; and
2. All persons, including subcontractors, assigned by the Contractor to perform work pursuant to the Contract, within the United States of America.

The Contractor shall provide, upon request of TXDPS an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Contractor, and Contractor subcontractors, as proof that this provision is being followed.

If this certification is falsely made, the Contract may be immediately terminated, at the discretion of the state and at no fault to the state, with no prior notification. The Contractor shall also be responsible for the costs of any re-solicitation that the state must undertake to replace the terminated Contract.

Pursuant to Government Code 2261.252 the Department may not enter into a contract for the purchase of goods or services with a private vendor if members of the Public Safety Commission or certain positions within the agency including the Executive Director, the General Counsel or the Procurement Director or their covered family members have a financial interest in the vendor. Any contract found to violate Government Code 2261.252 is void.

Pursuant to Government Code 572.069 the Respondent certifies that it has not employed and will not employ a former TXDPS or state officer who participated in a procurement or contract negotiation for TXDPS involving the Respondent within two (2) years after the state officer or employee left state agency employment or service. This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.

Per Fallows International response to TXDPS Solicitation No. 405-16-B002054 and corresponding Quote No. 00004700 dated 8/08/2016.

Only TXDPS Standard Terms & Conditions Rev. 4/16 apply to this order. By acceptance of this TXDPS Purchase Order, vendor certifies that all requirements and specifications listed in TXDPS Solicitation No. 405-16-B002054 will be met upon delivery.

Standard parts and labor warranty applies to this order.

**Contract Monitor/Delivery contact:**

Name: Clay Bosworth

Tel: 512-424-5822

E-mail: Norman.Bosworth@dps.texas.gov

**Vendor Contact:**

Name: Manas Vaidya

Tel: 409-460-8151

E-mail: Parts@fallowsinternational.com

**Contract Administrator:**

Name: Bryan Williams

Tel: 512-424-5422

E-mail: Bryan.williams@dps.texas.gov

TAX:	\$ 0.00
FREIGHT:	\$ 2,000.00
TOTAL:	\$ 33,059.68

APPROVED

By: Bryan Williams, CTPM

Phone#: (512) 424-5422

BUYER



TEXAS DEPARTMENT OF PUBLIC SAFETY
INVITATION FOR BIDS (IFB)
IFB Title

IF NOT BIDDING
DO NOT RETURN THIS FORM.

Destination of Goods or Services
Texas Department of Public Safety
5805 N. Lamar Blvd.
Austin, Texas 78752

BID ISSUE DATE 7/22/2016
BID OPENING DATE 8/8/2016 @ 10:00 am
CENTRAL TIME
OPEN MARKET BID 405-16-B002054

By submitting this Bid, the Bidder agrees to comply with the Terms & Conditions of this Bid and certifies that if a Texas address is shown as the address of the Bidder, the Bidder qualifies as a Texas Bidder as defined in 34 TAC Rule

FORMAL INVITATION FOR BIDS

INSTRUCTIONS FOR SUBMISSION OF BIDS:

Submit Bids to:
Texas Department of Public Safety
(TXDPS) eProcurement System
Bid #405-16-B002054

https://eprocure.dps.texas.gov/bsa/login.jsp

IN THE EVENT BIDDER CANNOT ACCESS THE EPROCUREMENT SYSTEM PLEASE SUBMIT SIGNED BID TO:

COMMODITIES.BRANCH@DPS.TEXAS.GOV

THIS IFB MAY BE CANCELLED AT ANY TIME

HAND CARRIED AND MAILED BIDS
MAY BE SUBMITTED TO:
5805 N. Lamar Blvd., Bldg. A
Austin, Texas 78752

\*\*\*\*\*NOTE\*\*\*\*\*

Bids received after the Bid opening date, will not be accepted.

VENDOR CONTACT INFORMATION

Company Name
Company Remit Payment to Address
City, State, and Zip Code
Printed Name of Representative
E-Mail Address
Phone Number:
Fax Number:

AN IDENTIFICATION NUMBER IS REQUIRED TO PROCESS PAYMENT FOR GOODS/SERVICES PURCHASED AGAINST CONTRACT AWARDS. THE FEDERAL EMPLOYERS IDENTIFICATION NUMBER (EIN) WILL BE USED TO ESTABLISH A PAYEE ID NUMBER:

PLEASE ENTER YOUR FEDERAL EIN: [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]

Every Bidder SHALL have an EIN prior to receiving payment under an awarded contract. This requirement is necessary to minimize identity theft. For information on obtaining your EIN, you may call the IRS at 800-829-4933 or visit the following web site:

https://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Employer-ID-Numbers-EINs

CHECK HERE IF YOU ARE A SOLE OWNERSHIP OR PARTNERSHIP: [ ]

PREFERENCES

See Section 2.27 and 2.28 of the State of Texas Procurement Manual regarding preferences.

Check below to claim a preference under 34 TAC Rule 20.38

- Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
Agricultural products grown in Texas
Agricultural products offered by a Texas bidder
Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
Services offered by a Texas bidder that is not owned by a Texas resident service disabled veteran
Recycled motor oil and lubricants
Foods of Higher Nutritional Value
Texas Vegetation Native to the Region
Products of persons with mental or physical disabilities
Vendors that meet or exceed air quality standards
Products and services from economically depressed or blighted areas
Recycled or Reused Computer Equipment of Other Manufacturers
Products produced at facilities located on formerly contaminated property
USA produced supplies, materials or equipment
Rubberized asphalt paving material
Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
Energy Efficient Products

**NOTE TO RESPONDENT**

When responding to this solicitation Bidder shall respond with all information/documents pertaining to the award of the product and/or services to include: any exceptions to TXDPS's Terms and Conditions (TXDPS excludes any of the Bidder's exceptions to the terms and conditions and any additional terms and conditions provided by the Bidder in its Bid unless expressly agreed otherwise in the award, Statements of Work and/or any agreements. After the Bid opening date no additional document submissions will be allowed unless requested by TXDPS.

**Any information/documents/exceptions received after the Bid opening date will not be considered unless requested by TXDPS.**

**DESCRIPTION AND PRICING**

**PURCHASE OF THE FOLLOWING:**

The Texas Department of Public Safety (TXDPS) is soliciting bids to award dormitory furniture.

By submitting bid, the vendor guarantees delivery of all items no later than December 1, 2016.

If the Bidder does NOT submit through the eProcurement System, the documents included in this IFB shall be returned with the Bid via email or hard copy as detailed on page one (1). Please utilize the enclosed checklist to ensure the Bid response is complete.

If the Bidder is submitting through the eProcurement System, pages 1, 2, and 28 shall be uploaded in the Attachments Tab of eProcurement using the following link: <https://eprocure.dps.texas.gov/bsol/login.jsp>

**IN THE EVENT THE BIDDER CANNOT ACCESS THE EPROCUREMENT SYSTEM, PLEASE USE THE PRICING SHEET BELOW WHEN SUBMITTING YOUR BID.**

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENSION
1	Metal Dormitory bed frames as per Attachment B Specifications	136	EA	\$	\$
2				\$	\$
3				\$	\$
4				\$	\$
5				\$	\$
6				\$	\$
7				\$	\$

07/29/2016 4:00PM CT      Questions due via eProcurement or e-mailed to [Commodities.Branch@dps.texas.gov](mailto:Commodities.Branch@dps.texas.gov)

08/03/2016 4:00PM CT      Responses to submitted Questions will be posted to eProcurement and/or to the Electronic State Business Daily (ESBD).

Point of Contact:  
 TXDPS Purchaser: Bryan Williams  
 Phone Number: (512) 424-5422  
 E-Mail: [Commodities.Branch@dps.texas.gov](mailto:Commodities.Branch@dps.texas.gov)

**SERVICE PERIOD:** From date of award – 12/1/2016

**SERVICE PERIOD WITH OPTIONS**       Applicable       Not Applicable

This IFB consists of the following:  
 IFB – Pages ..... 1 - 25  
 Attachment Listing Page ..... 26  
 Attachments A through B - Pages .... 27 - 30



**INVITATION FOR BIDS**  
**Texas Department of Public Safety**  
**Continuation Page**

**BID OPENING DATE: 8/8/2016 @ 10:00 am**  
**BIDDERS NAME**

TXDPS will use the best value factors listed below in determining the lowest overall cost for this solicitation listed below including but not limited to:

1. the purchase price;
2. installation costs;
3. life cycle costs;
4. the quality and reliability of goods and services;
5. delivery terms;
6. cost of any employee training associated with this particular purchase;
7. the effect of a purchase on agency productivity;
8. past vendor performance;
9. Bidder experience or demonstrated capability; and
10. other factors relevant to determining the best value for the state in the context of this particular purchase

Information obtained from the Texas Comptroller's Office Vendor Performance Tracking System may be used in evaluating bids to determine the best value for the state. Only those bids that are deemed to be in administrative compliance will be evaluated for responsiveness to the state's needs.



INVITATION FOR BIDS  
Texas Department of Public Safety  
Continuation Page

BID OPENING DATE: 8/8/2016 @ 10:00 am  
BIDDERS NAME

DESCRIPTION (Continued)

**1. CHANGE ORDERS**

No verbal changes to these specifications are permitted. Any changes will be by written addendum. Change orders will be allowed only if unforeseen conditions arise or if TXDPS needs to dictate changes. No verbal change orders will be allowed, all change orders will be in writing by a purchase order change notice.

**2. IMMIGRATION**

The Vendor represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986 and 1990 regarding employment verification and retention of verifications forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under the Contract and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) enacted on September 30, 1996.

**3. OFFER PREPARATION COSTS**

TXDPS will not be responsible or liable for any costs incurred by any Bidder in the preparation and submission of its Bid or for other costs incurred by participating in this solicitation process.

**4. ORDER OF PRECEDENCE**

In the event of conflicts or inconsistencies between this Contract and its exhibits or attachments, such conflicts or inconsistencies will be resolved by reference to the documents in the following order of priority. This Agreement is composed of the following documents:

- 4.01. Purchase Order/Contract, including all amendments/change orders and attachments;
- 4.02. This IFB Including all Amendments;
- 4.03. The Vendor's Bid Response.

**5. POSTINGS**

It is the Bidder's responsibility to check the Electronic State Business Daily (ESBD) for any additional documents that have been added after the initial posting date. The Bidder's failure to periodically check the ESBD will in no way release the selected Bidder from "addenda or additional information" resulting in additional costs to meet the requirements of the IFB.

**6. BACKGROUND CHECK**       Applicable       Not Applicable

Work on this project is being performed in secure State of Texas facilities. All contract work crews are subject to Background checks prior to allowing access to these facilities. This includes all workers associated with the project or their respective sub-contractors.

Documents will be provided to the primary contractor for distribution to their affected personnel or subcontractors (post bid and prior to commencement of the work). Personnel information must be provided upon request from each person working on this site. Fingerprinting may be included as part of that background check and a location shall be identified to the Vendor for compliance. Incomplete forms will be returned and only approved personnel shall be allowed on the site.



INVITATION FOR BIDS  
Texas Department of Public Safety  
Continuation Page

BID OPENING DATE: 8/8/2016 @ 10:00 am  
BIDDERS NAME

DESCRIPTION (Continued)

The Vendor, to include all staff working on awarded project shall have thirty (30) calendar days from the date of award to get fingerprints taken, paperwork submitted and personnel approved. In case of background check failure of personnel, the Vendor shall have five (5) business days from announcement of failure to re-submit completed fingerprint and forms to the Project Manager for replacement personnel.

If all background checks have not been completed in the thirty (30) calendar days, the purchase order will be cancelled and will be awarded to next qualified Bidder listed on the bid tabulation. The above procedures and stipulations will apply to any subsequent Bidders that are awarded the project. TXDPS is a Police organization and will make every effort to enforce applicable State of Texas, Federal and International laws. Persons with outstanding warrants shall be subject to immediate arrest. Persons with criminal histories may not be allowed unescorted in secure TXDPS facilities. Nondisclosure statements may also be required when working on or within certain TXDPS locations.

7. **BONDS**  Applicable  Not Applicable

Bonds will be required from the successful Bidder before commencing any work as follows:

- 7.01. For a contract in excess of \$100,000.00 a performance bond shall be executed in the amount of the contract conditioned upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. Said bond shall be solely for the protection of the state.
- 7.02. For a contract in excess of \$25,000.00 a payment bond shall be executed in the amount of the contract, solely for the protection of all claimants supplying labor and material.
- 7.03. Any bids submitted shall include the cost of any applicable bond. Costs shall be included in the base bid and shall not be itemized separately.

If a bond is required, the successful Bidder will be notified by mail. The bond must be received by TXDPS within ten calendar days and must reference the IFB number. A purchase order will not be issued until the bond is received and no work shall begin until the Bidder is notified.

8. **HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PARTICIPATION**

- 8.1 The Respondent shall make a good faith effort to comply with all state Historically Underutilized Business (HUB) requirements pursuant to Texas Government Code, Chapter 2261 and administrative rules, if applicable. The successful Respondent shall also comply with the approved HUB Subcontracting Plan.
- 8.2 The Respondent shall submit a HUB Subcontracting Plan (HSP) as part of its Proposal and shall comply with implementation of the HSP. The successful Respondent shall seek written approval from the Department prior to making any modifications to its HSP.
- 8.3 The Respondent shall submit a detailed description of the HSP and required forms with the Proposal which is included as Attachment H, HUB Subcontracting Plan (HSP). The Respondent's Proposal will be disqualified if the HSP Forms are not completed in full or missing from the Respondent's original Proposal.
- 8.4 The successful Respondent shall provide notice to all subcontractors of their selection as a subcontractor for this Contract. The notice will specify, at a minimum, TXDPS' name, the name of the Contract Administrator, this Contract's assigned contract number, the subcontracting opportunity the subcontractor will perform, the approximate dollar value of the subcontractor, and the expected percentage of this Contract's total value that the subcontract represents. A copy of the notice will be provided to the Contract Administrator no later than ten (10) business days after the effective date of this Contract.



INVITATION FOR BIDS  
Texas Department of Public Safety  
Continuation Page

BID OPENING DATE: 8/8/2016 @ 10:00 am  
BIDDERS NAME

8.5 The successful Respondent shall submit to the Contract Administrator on a monthly basis (by the 5<sup>th</sup> day of the following month) the Prime Vendor Progress Assessment Report, which is included as Attachment H, HUB Subcontracting Plan.

9. **INSURANCE**  Applicable  Bidders may be Required to Present Proof of Insurance.

**See Terms and Conditions for all insurance requirements**

10. **INSURANCE: PROFESSIONAL LIABILITY**  Applicable  Not Applicable

If the Vendor is a licensed or certified person who renders professional services, then **Professional Liability** (including Errors and Omissions) including coverage for the rendering of, or failure to render, professional services with minimum limits of \$1,000,000 per occurrence, \$2,000,000 annual aggregate. **NOTE:** If the insurance described above is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than twenty-four (24) months following completion of the contract and acceptance by TXDPS. Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to this Contract.

11. **SERVICE CALL RESPONSE TIME**  Applicable  Not Applicable

Response time will vary dependent upon the complexity and/or location of the service. After receiving a call for service, the Vendor shall have a technician on-site within the specified time requirements for the following types of service calls:

- 11.01. **SERVICE CALL DURING REGULAR WORK HOURS (8:00 a.m. to 5:00 p.m.)**: Within N/A hour(s) of notification.  
11.02. **SERVICE CALLS OUTSIDE REGULAR HOURS**: Within N/A hour of notification  
11.03. **EMERGENCY SERVICE DURING REGULAR WORK HOUR (8:00 a.m. to 5:00 p.m.)**: Response time to emergency call-backs during regular business hours shall be within N/A hours. TXDPS will identify emergency calls at time of notification.  
11.04. **EMERGENCY CALLS OUTSIDE REGULAR HOURS**: Within N/A hour(s) of notification.  
An emergency call will be identified as any conditions that can potentially impact the health, safety and welfare of TXDPS' employees and the public. TXDPS will identify emergency calls at time of notification.

12. **WARRANTY CALL RESPONSE TIME**  Applicable  Not Applicable

TXDPS requires the Vendor to respond to any warranty call concerning this project within a 48 hour time period. For any warranty call issued, the Vendor shall have a qualified technician onsite within 72 hours of being notified that a warranty issue exists.



INVITATION FOR BIDS  
Texas Department of Public Safety  
Continuation Page

BID OPENING DATE: 8/8/2016 @ 10:00 am  
BIDDERS NAME

DESCRIPTION (Continued)

13. **RETAINAGE**

Applicable

Not Applicable

TXDPS reserves the right to withhold 10% retainage from final payment until all work is accepted by TXDPS and warranty or equipment operation and maintenance documents are in hand (if applicable). This includes required original Vendor provided installation letters on their letterhead, applicable material manufacturer industry standard warranties, any equipment operation and maintenance manuals, or other project inclusive documentation for the respective trades associated with this project.

14. **WAGE RATES**

Applicable

Not Applicable

TXDPS is the contracting agency for this state-funded project. The following statute requires any contracting agency to specify the generally prevailing rate of wages in contracts that are bid.

14.01 Gov't Code § 2258. Prevailing wage rates pursuant to the requirements of this statute. TXDPS has ascertained the attached rates located in Exhibit F, are paid to various classifications of workers in the locality of this project.

14.02 The hourly rate for legal holiday and overtime work shall be not less than 1½times the base hourly rate.

A contractor or subcontractor who violates this section shall pay to the state or a political subdivision of the state on whose behalf the contract is made, \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. The Gov't Code § 2258 prevailing wage rate can be viewed at the following: <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2258.htm>

15. **UNIFORM GENERAL CONDITIONS for CONSTRUCTION PROJECTS:**

Applicable

Not Applicable

This Contract will be governed by the Uniform General Conditions (UGC). UGC may be viewed at

[http://www.tfc.state.tx.us/divisions/facilities/prog/construct/formsindex/07C%20-%20UGC\\_2010.pdf](http://www.tfc.state.tx.us/divisions/facilities/prog/construct/formsindex/07C%20-%20UGC_2010.pdf)

**DESCRIPTION (Continued)**

- 16. REFERENCES:**       Applicable                       Not Applicable

All Bidders shall submit three (3) past or current projects of similar size and complexity within the past five (5) years to include the following information as identified on Attachment C, Verification of Experience Form shall be returned with the Bid.

1. Bidder Name:
2. Company Information
3. Project name, location, and description
4. Start and Completion Dates

- 17. CORRECTIVE ACTION PLAN:**                       Applicable                       Not Applicable

If TXDPS discovers issues of unsatisfactory performance as set forth in this Contract, TXDPS shall request a "Corrective Action Plan" from the Vendor. Upon request from the TXDPS Project Manager or his/her designated representative, the Vendor shall deliver a Corrective Action Plan within ten (10) business days that will then be reviewed for acceptance by the TXDPS Contract Administrator. The Corrective Action Plan will address and correct all unsatisfactory performance within thirty (30) days of the implementation. Failure to correct the unsatisfactory performance within the allotted time shall be grounds for termination.

- 18. U.S. DEPARTMENT OF HOMELAND SECURITY E-VERIFY SYSTEM:**

By entering into this Contract, the Vendor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security E-Verify system to determine the eligibility of

1. All persons employed to perform duties within Texas, during the term of the Contract; and
2. All persons, including subcontractors, assigned by the Vendor to perform work pursuant to the Contract within the United States of America.

The Vendor shall provide, upon request of TXDPS an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Vendor, and Vendor subcontractors, as proof that this provision is being followed. If this certification is falsely made, the Contract may be immediately terminated, at the discretion of TXDPS and at no fault to TXDPS, with no prior notification. The Vendor shall also be responsible for the costs of any re-solicitation that TXDPS must undertake to replace the terminated Contract.

- 19. NOTICE UNDER GOVERNMENT CODE 2261.252**

Pursuant to Government Code 2261.252 the Department may not enter into a contract for the purchase of goods or services with a private vendor if members of the Public Safety Commission or certain positions within the agency including the Executive Director, the General Counsel or the Procurement Director or their covered family members have a financial interest in the vendor. Any contract found to violate Government Code 2261.252 is void.

- 20. DISCLOSURE OF RESTRICTED EMPLOYMENT**

Pursuant to Government Code 572.069 the Respondent certifies that it has not employed and will not employ a former TXDPS or state officer who participated in a procurement or contract negotiation for TXDPS involving the Respondent within two (2) years after the state officer or employee left state agency employment or service.

This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.

**21. NOTICE UNDER GOVERNMENT CODE 2252.908**

Pursuant to Government Code 2252.908 the Department may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the Department at the time the business entity submits the signed contract to the Department. The Texas Ethics Commission has adopted rules and procedures under these provisions:

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

Any contract found to violate Government Code 2252.908 is void.

**22. BIDDER AFFIRMATIONS**

**22.1** Pursuant to §231.006(d), Texas Family Code, regarding child support, the Bidder certifies that the individual or business entity named in this Bid is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any Bidder subject to §231.006, Gov't Code, must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the Bid. This information must be provided prior to award. Enter the Name & Social Security Numbers for each person below:

Name:	Social Security Number:
Name:	Social Security Number:
Name:	Social Security Number:

**22.2.** Pursuant to §669.003, Gov't Code, TXDPS may not enter into a contract with a person who employs a current or former executive head of any state agency until four years has passed since that person was the executive head of the state agency. By submitting a Bid, the Bidder certifies that it does not employ any person who was the executive head of any state agency in the past four years. If Bidder does employ a person who was the executive head of a state agency, provide the following information:

Name of Former Executive: \_\_\_\_\_

Name of State Agency: \_\_\_\_\_

Date of Separation from State Agency: \_\_\_\_\_

Position with Bidder: \_\_\_\_\_

Date of Employment with Bidder: \_\_\_\_\_

# TEXAS DEPARTMENT OF PUBLIC SAFETY STANDARD TERMS AND CONDITIONS



## STANDARD TERMS AND CONDITIONS FOR COMMODITIES AND SERVICES

### ITEMS BELOW APPLY TO AND BECOME PART OF BID. ANY EXCEPTIONS THERETO MUST BE IN WRITING

#### 1. BIDDING REQUIREMENTS:

- 1.1 Bidders shall comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.
- 1.2 Bids shall be submitted on this IFB form. Bidders shall price per unit shown. Unit prices shall govern in the event of extension errors. If a price quotation is submitted as part of the Bid, the quotation shall be referenced in the Bid and signed by the Bidder to establish formal linkage to the Bid.
- 1.3 Bids shall be time stamped at the Texas Department of Public Safety (TXDPS) on or before the hour and date specified for the Bid opening.
- 1.4 Late and/or unsigned bids will not be considered under any circumstances. Person signing Bid shall have the authority to bind the firm in a contract.
- 1.5 Quote FOB destination, freight prepaid and allowed unless otherwise stated within the specifications.
- 1.6 Bid prices are requested to be firm for TXDPS acceptance for 30 calendar days from Bid opening date. "Discount from list" bids are not acceptable unless requested. Cash discounts are not considered in determining an award. Cash discounts offered will be taken if earned.
- 1.7 Bidder shall enter its Federal Employee Identification Number (EIN) in the space provided on page 1 of this IFB.
- 1.8 Bidder shall complete the Vendor contact information on page 1 of this IFB.
- 1.9 Bidder shall complete firm name on each continuation page of the IFB, in the block provided in the upper right hand corner. Purchases made for TXDPS use are exempt from the State Sales tax and Federal Excise tax. Do not include tax in bid. Excise Tax Exemption Certificates are available upon request.

#### 2. AWARD NOTICE:

- 2.1 TXDPS reserves the right to make an award on the basis of low line item bid, low total of line items, or in any other combination that will serve the best interest of TXDPS and to reject any and all items bid at the sole discretion of TXDPS. TXDPS also reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the Bid to best serve the interests of TXDPS. Any contract may also be extended up to three months at the sole discretion of TXDPS.
- 2.2 Consistent and continued tie bidding may cause rejection of bids by TXDPS and/or investigation for antitrust violations.
- 2.3 Inquiries pertaining to this solicitation shall include the requisition number, brief description, and opening date.

#### 3. SPECIFICATIONS:

Catalogs, brand names or manufacturer's references are descriptive only, and indicate type and quality desired. Bids on brands of like nature and quality will be considered unless advertised under §2155.067 Texas Government Code (Gov't Code). If a bidder believes it can satisfy these specifications, it should bid its goods and/or services and explain how the specifications will be adequately met."

- 3.1 If bidding on specifications other than those stated within this Solicitation, bid should show manufacturer, brand or trade name, and other description of product offered. If other than brand(s) specified is offered, specifications, illustrations and complete description of product offered shall be included with bid response. Failure to take exception to specifications or reference data will require Bidder to furnish specified brand names, numbers, etc.
- 3.2 Unless otherwise specified, items shall be new and unused and of current production.
- 3.3 All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA.
- 3.4 Samples, when requested, must be furnished at no cost to TXDPS. Each sample shall be marked with Bidder's name and address, and solicitation number. Do not enclose in or attach Bid to sample. If not destroyed in examination, they may be returned to the Bidder, on request, at Bidder's expense. If Bidder does not request return of samples, the samples will be retained, destroyed or donated at TXDPS' discretion.
- 3.5 TXDPS will not be bound by any oral statement or representation contrary to the written specifications of this solicitation.
- 3.6 Bid cannot be altered or amended after opening time. Alterations made before opening time shall be initialed by



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Bidder or its authorized agent. Should a Bidder after opening time request its Bid be withdrawn, the request shall be made in writing. No bid can be withdrawn after opening time unless approved in writing by TXDPS.

- 3.7 Manufacturer's standard warranty shall apply unless otherwise stated in the solicitation.

#### 4. TIE BIDS:

Awards will be made in accordance with 34 TAC Rules 20.36(b) (3) and 20.38 (Preferences).

#### 5. DELIVERY:

- 5.1 Show number of days required to place goods or services in receiving agency's designated location under normal conditions. Delivery days mean calendar days, unless otherwise specified. Failure to state delivery time obligates Vendor to deliver in 14 calendar days. Unrealistic delivery promises may cause Bid to be disqualified.
- 5.2 If delay is foreseen, Vendor shall give written notice to TXDPS. Vendor shall keep TXDPS advised at all times of status of order.
- 5.3 Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes TXDPS to purchase the goods or services of this solicitation elsewhere and charge any increased costs for the goods or services, including the cost of rebidding, to the Vendor.
- 5.4 No substitutions permitted without prior written approval of TXDPS.
- 5.5 Delivery shall be made during normal business hours only, unless prior approval has been obtained from TXDPS.

#### 6. INSPECTION AND TESTS:

All goods will be subject to inspection and testing by TXDPS. Authorized TXDPS personnel shall have access to supplier's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the Bid or on samples taken from regular shipment. All costs shall be borne by the Bidder in the event products tested fail to meet or exceed all conditions and requirements of the specification. Goods delivered and rejected in whole or in part may, at TXDPS' option, be returned to the Bidder or held for disposition at Bidder's expense. Latent defects may result in revocation of acceptance.

#### 7. AWARD OF CONTRACT:

A bid response to this solicitation is an offer to contract based upon the terms, conditions, and specifications contained herein. Bids do not become contracts until they are accepted through an open market purchase order. The contract shall be governed, construed, and interpreted under the laws of the State of Texas. State agencies shall report a vendor's performance on any purchase of \$25,000 or more from contracts administered by the Texas Comptroller of Public Accounts (CPA) or any other purchase made through an agency's delegated authority or a purchase made pursuant to the authority in Gov't Code, Title 10, Subtitle D or a purchase exemption from CPA's procurement rules and procedures.

#### 8. PAST PERFORMANCE AND BEST VALUE:

A Bidder's past performance will be measured based upon pass/fail criteria, in compliance with applicable provisions of Gov't Code, Title 10, Subtitle D, Section 2155.074, Section 2155.075, Section 2156.007, Section 2157.003 and Section 2157.125 and Texas Administrative Code (TAC), Title 34, Part 1 Chapter 20, Subchapter C, §20.108, information obtained from the Texas Procurement and Support Services' Vendor Performance Tracking System may be used in evaluating responses to solicitations for goods and services to determine the best value for the State. Bidders may fail these selection criteria for any of the following conditions:

- 8.1 A score of less than 90% in the Vendor Performance System;
- 8.2 Currently under a Corrective Action Plan through TXDPS;
- 8.3 Having repeated negative Vendor Performance Reports for the same reason;
- 8.4 Having purchase orders that have been cancelled in the previous 12 months for non-performance (i.e. late delivery, etc.).



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Vendor performance information is located on the CPA's website at:  
[http://www.window.state.tx.us/procurement/prog/vendor\\_performance/](http://www.window.state.tx.us/procurement/prog/vendor_performance/)

**9. PAYMENT:**

Vendor shall submit an itemized invoice showing the TXDPS purchase order (PO) number. TXDPS will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods or services and an uncontested invoice. Payment shall be made in accordance with Chapter 2251, Gov't Code.

**10. PATENTS, TRADEMARKS OR COPYRIGHTS:**

**VENDOR SHALL DEFEND AND INDEMNIFY TXDPS AND THE STATE FROM CLAIMS INVOLVING INFRINGEMENT OR VIOLATION OF PATENTS, TRADEMARKS, COPYRIGHTS, TRADE SECRETS, OR OTHER PROPRIETARY RIGHTS, ARISING OUT OF TXDPS' OR THE STATE'S USE OF ANY GOOD OR SERVICE PROVIDED BY THE VENDOR AS A RESULT OF THIS SOLICITATION.**

**11. VENDOR ASSIGNMENTS:**

Vendor hereby assigns to TXDPS any and all claims for overcharges associated with this Contract arising under the antitrust laws of the United States 15 U.S.C.A. §1, *et seq.*, and the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code §15.01, *et seq.*

**12. AFFIRMATIONS:**

Signing or accepting this Contract with a false statement is a material breach of contract and shall void this Contract, and Vendor shall be removed from all bid lists. Vendor, by its signature on or acceptance of this Contract, hereby certifies to TXDPS and affirms to TXDPS all of the following:

- 12.01 Vendor has not given, offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract. Violation of this requirement may result in termination of this Contract at TXDPS' discretion.
- 12.02 Vendor waives any claim against and releases TXDPS, its officers, employees, agents, and attorneys from liability with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by Vendor and determined by the Attorney General or a court of law to be subject to disclosure under the Texas Public Information Act.
- 12.03 Vendor will promptly notify TXDPS in the event that any representations and warranties provided in this Contract are no longer true and correct, Vendor acknowledges that all of its representations and warranties contained in this Contract are material and have been relied upon by TXDPS in selecting Vendor for the award of this Contract. Further, Vendor warrants and represents that all of its statements and representations made to TXDPS prior to being awarded this Contract, and those made during the negotiation of this Contract, are material, true and correct.
- 12.04 Under §231.006(d), Texas Family Code (relating to child support), Vendor, certifies that it is not ineligible to receive payments under this Contract and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
- 12.05 Vendor certifies that it is exempt or not delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Texas Tax Code. If Vendor is a qualifying business entity type per Texas Comptroller of Public Accounts guidelines and is not set up in the Texas Franchise Tax System, Vendor must do so prior to contracting with TXDPS.
- 12.06 Under §2155.004, Gov't Code, Vendor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate. §2155.004 prohibits a person or entity from receiving a state contract if



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that person or entity received compensation for participating in preparing the solicitation or specifications for the contract.

- 12.07 Under §2252.903, Gov't Code, Vendor agrees that any payments due under this Contract shall be directly applied towards eliminating any debt or delinquency including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support, until the debt is paid in full. Vendor shall comply with rules adopted by the state under §§403.055, 403.0551, 2252.903, Gov't Code and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas.
- 12.08 Vendor certifies it is in compliance with §669.003, Gov't Code, relating to contracting with an executive of a state agency. TXDPS may not enter into a Contract with a person who employs a current or former executive head of any state agency until four years has passed since that person was the executive head of the state agency. Vendor certifies that it does not employ any person who was the executive head of any state agency in the past four (4) years
- 12.09 Vendor agrees that no person will, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation, or religious belief, be excluded from the participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of, or in connection with, any program or activity funded in whole or in part with funds available under this Contract or PO. Vendor will comply with Executive Order 11246, "Equal Employment Opportunity", as amended by Executive Order 11375, "Amending Executive Order 11246 relating to Equal Employment Opportunity," and as supplemented by regulations at 41 C.F.R. Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity Commission, Department of Labor."
- 12.10 In accordance with §2155.4441, Gov't Code, Vendor shall, during the performance of this Contract, purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.
- 12.11 Vendor certifies that the entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Vendor is in compliance with the State of Texas statutes and rules relating to procurement and that Vendor is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>
- 12.12 §§2155.006 and 2261.053 of the Gov't Code, prohibit state agencies from awarding contracts to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004, Gov't Code, occurring after September 24, 2005. Under §2155.006, Gov't Code, Vendor certifies that the individual or business entity named in this Contract is not ineligible to receive a contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
- 12.13 **DISCLOSURE OF RESTRICTED EMPLOYMENT**  
Pursuant to Gov't Code 572.069 the Respondent certifies that it has not employed and will not employ a former TXDPS or state officer who participated in a procurement or contract negotiation for TXDPS involving the Respondent within two (2) years after the state officer or employee left state agency employment or service. This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.



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- 12.14 Vendor represents and warrants that payment to Vendor and Vendor's receipt of appropriated or other funds under this Contract are not prohibited by §556.005 or §556.008, Gov't Code, relating to the prohibition of using state funds for lobbying activities.
- 12.15 Vendor certifies that it, nor anyone acting for it, has violated the antitrust laws of the United States or the State of Texas, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage.
- 12.16 Vendor certifies that to the best of its knowledge and belief, there are no suits or proceedings pending or threatened against or affecting it, which if determined adversely to it will have a material adverse effect on its ability to fulfill its obligations under this Contract.
- 12.17 To the extent applicable to the scope of this Contract, Vendor hereby certifies that it is in compliance with Subchapter Y, Chapter 361, Health and Safety Code related to the Computer Equipment Recycling Program and its rules, 30 TAC Chapter 328.
- 12.18 Vendor represents and warrants that neither it nor its employees and subcontractors have an actual or potential conflict of interest in signing or accepting this Contract. Vendor also represents and warrants that entering into or accepting this Contract will not create the appearance of impropriety. Any existing or potential conflict of interest has been disclosed to TXDPS. This requirement to disclose any actual or potential conflict of interest will continue during the term of this Contract, and will survive until the end of the applicable recordkeeping requirements. identified for this Contract. Vendor has disclosed or does not employ any personnel who are current or former officers or employees of TXDPS or who are related, within the third degree by consanguinity (as defined by §573.023, Gov't Code) or within the second degree of affinity (as defined by §573.025, Gov't Code), to any current or former officers or employees of TXDPS.

#### 13. NOTE TO BIDDER:

If Bidder takes any exceptions to any provisions of this solicitation, these exceptions must be specifically and clearly identified by section in the Bid. If any exceptions are taken, the Bid may be declared non-responsive. Bidders cannot take a 'blanket exception' to the entire solicitation. If any Bidder takes a 'blanket exception' to the entire solicitation or does not provide proposed alternative language, the Bidder's Bid may be disqualified from further consideration.

#### 14. PROTEST PROCEDURES:

Any actual or prospective Bidder who is aggrieved in connection with this solicitation, evaluation, or award of any contract resulting from this solicitation may formally protest as provided in TXDPS' rules at 37 TAC Rule 1, Chapter 1, Subchapter U, Rule 1.264.

#### 15. DISPUTE RESOLUTION:

The dispute resolution process provided for in Chapter 2260, Gov't Code shall be used by the Vendor to attempt to resolve any dispute arising under this Contract.

#### 16. NON-APPROPRIATION OF FUNDS:

This Contract is subject to termination or cancellation, without penalty to TXDPS, either in whole or in part, subject to the availability of state funds. TXDPS is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If TXDPS becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds which would render TXDPS' or Vendor's delivery or performance under this Contract impossible or unnecessary, this Contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, TXDPS will not be liable to Vendor for any damages, which are



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caused or associated with such termination, or cancellation and TXDPS will not be required to give prior notice.

**17. TEXAS PUBLIC INFORMATION ACT:**

Notwithstanding any provisions of this solicitation to the contrary, Bidder understands that TXDPS will comply with the Texas Public Information Act (Chapter 552, Gov't Code) as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to the Texas Public Information Act. Within three (3) days of receipt, Vendor will refer to TXDPS any third party requests, received directly by Vendor, for information to which Vendor has access as a result of or in the course of performance under any contract resulting from this solicitation. Any part of the Bid that is of a confidential or proprietary nature shall be clearly and prominently marked as such by the Bidder.

TXDPS shall notify the Vendor in writing within a reasonable time from receipt of a request for information related to the Vendor's work under this Contract. The Vendor shall cooperate with TXDPS in the production of documents responsive to the request. TXDPS shall make a determination whether to submit a Public Information Act request to the Attorney General. The Vendor shall notify TXDPS within 24 hours of receipt of any third party requests for information that was provided by the State of Texas for use in performing this Contract.

The Vendor is required to make any information created or exchanged with the state pursuant to this Contract, and not otherwise accepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to TXDPS.

**18. CONFLICT OF INTEREST:**

Under §2155.003, Gov't Code, a TXDPS employee may not have an interest in, or in any manner be connected with a contract or bid for a purchase of goods or services by an agency of the state; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the State of Texas Procurement Manual, which outlines the ethical standards required of public purchasers, employees, and bidders who interact with public purchasers in the conduct of state business, and with any opinions of or rules adopted by the Texas Ethics Commission. Entities who are interested in seeking business opportunities with TXDPS shall be mindful of these restrictions when interacting with public purchasers of TXDPS.

By signing its Bid, Bidder affirms that the execution of a contract between Bidder and TXDPS will not create a conflict of interest or cause an appearance of a conflict of interest. Bidder shall disclose any existing or potential conflicts of interest or possible issues within its Bid that might create appearances of impropriety relative to Bidder's (and its proposed subcontractors') submission of its Bid and possible selection as Vendor or its performance of this Contract.

If the circumstances certified by Bidder change or additional information is obtained subsequent to submission of bids, Bidder agrees that it is under a continuing duty to supplement its response under this provision, and Bidder shall submit updated information as soon as reasonably possible upon learning of any change to its affirmation.

**19. FORCE MAJEURE:**

Neither Vendor nor TXDPS shall be liable to the other for any delay in, or failure of performance, of any requirement included in this Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the



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exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

**20. INDEPENDENT CONTRACTOR:**

Vendor is and shall remain an independent contractor in relationship to the TXDPS. TXDPS will not be responsible for withholding taxes from payments made under this Contract. Vendor shall have no claim against TXDPS for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

**21. INDEMNIFICATION:  
ACTS OR OMISSIONS**

**VENDOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND TXDPS, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF THE VENDOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND TXDPS SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

**INFRINGEMENTS**

- a) **VENDOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND TXDPS, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD PARTY CLAIMS INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADE AND SERVICE MARKS, AND ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OF VENDOR PURSUANT TO THIS CONTRACT. VENDOR AND TXDPS SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.**
- b) **VENDOR SHALL HAVE NO LIABILITY UNDER THIS SECTION IF THE ALLEGED INFRINGEMENT IS CAUSED IN WHOLE OR IN PART BY: (I) USE OF THE PRODUCT OR SERVICE FOR A PURPOSE OR IN A MANNER FOR WHICH THE PRODUCT OR SERVICE WAS NOT DESIGNED, (II) ANY MODIFICATION MADE TO THE PRODUCT WITHOUT VENDOR'S WRITTEN APPROVAL, (III) ANY MODIFICATIONS MADE TO THE PRODUCT BY THE VENDOR PURSUANT TO TXDPS'S SPECIFIC INSTRUCTIONS, (IV) ANY INTELLECTUAL PROPERTY RIGHT OWNED BY OR LICENSED TO TXDPS, OR (V) ANY USE OF THE PRODUCT OR SERVICE BY TXDPS THAT IS NOT IN CONFORMITY WITH THE TERMS OF ANY APPLICABLE LICENSE AGREEMENT.**
- c) **IF VENDOR BECOMES AWARE OF AN ACTUAL OR POTENTIAL CLAIM, OR TXDPS PROVIDES VENDOR WITH**



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**NOTICE OF AN ACTUAL OR POTENTIAL CLAIM, VENDOR MAY (OR IN THE CASE OF AN INJUNCTION AGAINST TXDPS, SHALL), AT VENDOR'S SOLE OPTION AND EXPENSE; (I) PROCURE FOR TXDPS THE RIGHT TO CONTINUE TO USE THE AFFECTED PORTION OF THE PRODUCT OR SERVICE, OR (II) MODIFY OR REPLACE THE AFFECTED PORTION OF THE PRODUCT OR SERVICE WITH FUNCTIONALLY EQUIVALENT OR SUPERIOR PRODUCT OR SERVICE SO THAT TXDPS'S USE IS NON-INFRINGEMENT.**

**TAXES/WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE – INCLUDING INDEMNITY**

- a) **VENDOR SHALL ACKNOWLEDGE THAT DURING THE EXISTENCE OF THIS CONTRACT, VENDOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF VENDOR'S AND VENDOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. VENDOR SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. TXDPS AND/OR THE STATE WILL NOT BE LIABLE TO THE VENDOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.**
- b) **VENDOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CUSTOMERS, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND TXDPS SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

**22. RIGHT TO AUDIT:**

In addition to and without limitation on the other audit provisions of this solicitation, pursuant to §2262.154, Gov't Code, the state auditor may conduct an audit or investigation of the Vendor or any other entity or person receiving funds from the state directly under this Contract or indirectly through a subcontract under this Contract. The acceptance of funds by the Vendor or any other entity or person directly under this Contract or indirectly through a subcontract under this Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Vendor or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. This Contract may be amended unilaterally by TXDPS to comply with any rules and procedures of the state auditor in the implementation and enforcement of §2262.003, Gov't Code. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Vendor and the requirement to cooperate is included in any subcontract it awards.

**23. PUBLIC SAFETY COMMISSION REVIEW:**

The Texas Public Safety Commission or the Commission's designee ("Commission") shall receive notification of the following contracts awarded by TXDPS since the last commission meeting.

- a. Contract valued at one million dollars and 00/100 (\$1,000,000.00) or more, including available renewal options.
- b. Contract Amendments (other than exercise of available renewal options) valued at \$100,000.00 or more that



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- increase the value of the original contracts by 50% or more; and
- c. Contract amendments (other than exercise of available renewal options) valued at \$500,000 or more.

The Assistant Director, Administration, shall submit these reports to the Commission.

The Commission shall review contracts prior to or after award by TXDPS if required by applicable law. This Policy supersedes in its entirety the Commission's Contracting Policies adopted on August 15, 2012.

**24. NEWS RELEASES, ADVERTISEMENTS AND PUBLICITY:**

Vendor will not make any news releases, public announcements, or public disclosures, nor will it have any conversations with representatives of the news media, pertaining to this Contract, without the express, prior written approval of TXDPS, and then only in accordance with explicit written instructions from TXDPS. Vendor will not use the name of the State of Texas or TXDPS in any advertisement, promotion or otherwise for any purpose regarding this Contract without the express prior written consent of TXDPS. TXDPS is not authorized to provide endorsements.

**25. REDACTED DOCUMENTS:**

The Vendor is required to include electronically, a redacted copy of its Bid with specified private information removed, plus an overview of the nature of the information removed.

**26. CRIMINAL HISTORY BACKGROUND:**

Vendor shall have its project personnel submit to a TXDPS fingerprint-based criminal history background investigation, if required by TXDPS. To facilitate this criminal history background investigation, each person must be required to complete the TXDPS Vendor Background Information form (HR-22), which will be provided by TXDPS. Vendor is not responsible for any costs associated with obtaining any fingerprints for the criminal history background investigation.

If TXDPS requires a fingerprint-based criminal history background investigation, TXDPS will not allow personnel to work on the project who have not successfully completed a TXDPS fingerprint-based criminal history background investigation and who do not otherwise maintain a TXDPS security clearance. In addition, TXDPS has the right to prevent the Vendor's personnel from gaining access to the TXDPS building(s) and computer systems if TXDPS determines that such personnel do not pass the background check or fail to otherwise maintain a TXDPS security clearance.

**27. ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY STANDARDS:**

Effective September 1, 2006 state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in 1 TAC, Chapter 213 and 1 TAC, Chapter 206, when such products are available in the commercial market place or when such products are developed in response to a procurement solicitation.

**28. STATUTORY REPORTING REQUIREMENTS:**

Pursuant to Gov't Code 322.020 state agencies shall report certain major contracts and their contents to the Legislative Budget Board (LBB). The LBB posts major contracts and their contents onto a public database. Submission of contract materials, regardless of confidentiality indications in the contract materials, will be considered Vendor's recognition of the stated statute and Vendor's consent to the TXDPS' submission to LBB for publication.

**29. ABANDONMENT OR DEFAULT:**

If the Vendor defaults on this Contract, TXDPS reserves the right to cancel this Contract without notice and either re-solicit or re-award this Contract to the next best responsive and responsible bidder. The defaulting Vendor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless



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the specification or scope of work significantly changed. The period of suspension will be determined by the agency based on the seriousness of the default.

**30. ASSIGNMENT:**

Without the prior written consent of TXDPS, Vendor may not assign this Contract, in whole or in part, and may not assign any right or duty required under it.

**31. DRUG FREE WORKPLACE POLICY:**

The Vendor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 26) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Vendor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

**32. NOTICE:**

Any notice required or permitted under this Contract will be directed to the TXDPS Contract Administrator as identified within the solicitation document or to the Vendor's authorized representative named in the Vendor's Bid and will be deemed received:

- A. When delivered in hand and a receipt granted;
- B. Three (3) days after it is deposited in the United States mail by certified mail, return receipt requested; or
- C. When received if sent by confirmed facsimile or confirmed electronic mail.

**33. TERMS AND CONDITIONS:**

Any terms and conditions attached to a Bid response will not be considered unless specifically referred to on this solicitation and may result in disqualification.

**34. INSURANCE REQUIREMENTS FOR LAWN AND JANITORIAL SERVICES:**

The Vendor shall procure and maintain at its expense during the term of the Contract or any extensions thereof, insurance as listed below. Insurance shall be written by companies acceptable to TXDPS and authorized to do business in the State of Texas. Policies shall include terms and provisions indicated below. The Vendor shall provide and furnish evidence of the following insurance:

**34.1 Workers' Compensation and Employers' Liability** The Vendor shall maintain Workers' Compensation coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Section 401.001 et seq. of the Texas Labor Code) and minimum policy limits for Employers' Liability of: a) by accident, five hundred thousand and 00/100 dollars (\$500,000.00) per each accident; and b) by disease, five hundred thousand and 00/100 dollars (\$500,000.00) per employee with a per policy aggregate of one million and 00/100 dollars (\$1,000,000.00).

**34.2 Commercial General Liability Insurance** with a combined single limit of \$500,0000.00 per occurrence for coverage including products/completed operations, where appropriate, with a separate aggregate of \$1,000,000.00. If this insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than 60 months following completion of this Contract and acceptance by TXDPS.

Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to this Contract. Civil Rights Liability shall be provided with the same liability limits. It may be included within the General Liability policy or written on a separate policy; Liability coverage shall include coverage for damage to property and



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injury to persons caused by boiler and other equipment malfunction. The policy shall contain an endorsement to include coverage for the property of third parties.

- 34.3 Business Automobile Liability Insurance** The Vendor shall maintain Business Automobile insurance coverage for all owned, hired, and non-owned vehicles, with a minimum combined single limit of \$1,000,000 for each accident for bodily injury and property damage. Such insurance will include coverage for loading and unloading hazards.

If the Vendor will carry pollutants or hazardous materials, endorsements for Pollution Liability Coverage for Automobile and Motor Carrier Act will be included.

- 34.4 Additional Provisions:** The Vendor agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:
- A. TXDPS shall be named as an additional insured by using endorsement CG2026 or broader.
  - B. If insurance policies are not written for amounts specified above, the Vendor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability insurance is provided, it shall follow the form of the primary coverage.
  - C. Each policy of required insurance shall provide for thirty (30) days written notice of cancellation to TXDPS and include the following provisions. "It is a condition of this policy that the Insurer shall furnish written notice to TXDPS, Contract Administrator, Procurement and Contract Services Bureau, 5805 North Lamar Blvd, Austin, TX 78752 thirty (30) days in advance of any reduction in, or cancellation of this policy".
  - D. Insurance shall be effective and evidence of acceptable insurance furnished to TXDPS, prior to commencing any operations under this Contract.
  - E. Name TXDPS and its commissioners, officers, and employees as additional insured to all applicable policies.
  - F. Waive subrogation against TXDPS, its commissioners, officers and employees, for bodily injury (Including death), property damage or any other loss.
  - G. Provide that the Vendor's insurance is the primary insurance in regards to TXDPS, its commissioners, officers, and employees.
  - H. Provide that all provisions of this Contract concerning liability, duty and standard of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
  - I. Ensure that all certificates of insurance identify the service or product being provided and the name of responsible party.
  - J. The Vendor through an insurance agent licensed by the State of Texas shall obtain all insurance coverage and an insurance company licensed to issue such coverage in this State shall provide such coverage. No "self-insurance" coverage shall be acceptable. Local governmental entities, such as municipalities or counties, may submit proof of financial responsibility acceptable to TXDPS in lieu of commercial insurance policies.
  - K. All insurance coverage obtained by the Vendor shall continue in full force and effect during the term of the Contract. No Contract shall be entered into between the Vendor and TXDPS unless insurance coverage binders are received by the date scheduled for the execution of the Contract. Proof of insurance policies must be delivered prior to the date on which the services of the Vendor shall commence.
  - L. All insurance coverage is to be provided by insurance carriers permitted to conduct business in Texas. All insurance carriers shall be, at a minimum, rated "A" by A.M. Best or equivalent rating by a similar insurance rating agency.
  - M. The Vendor may choose the amount of deductible for any other insurance coverage required (above) to be obtained by the Vendor, but in no event shall such deductible for each occurrence exceed five (5) percent of the required yearly aggregate limit of coverage.
  - N. Vendor is responsible for the first dollar defense coverage. All general liability and professional liability policies shall provide defense in addition to the policy limits.



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- O. The limits required herein are minimum acceptable. However, these limits are not to be construed as being the maximum any prospective vendor may wish to purchase for its own benefit.

**35. INSURANCE REQUIREMENTS FOR OTHER THAN LAWN AND JANITORIAL SERVICES:**

Vendor shall comply with The State of Texas Workers' Compensation Insurance regulations and maintain commercial general liability insurance until work covered in this Contract is completed and accepted by TXDPS. Proof of insurance shall be provided upon request by TXDPS. Prior to the commencement of work under this Contract, the Vendor shall procure and maintain at its expense during the term of the Contract or any extensions thereof, insurance as listed below. Insurance shall be written by companies acceptable to TXDPS and authorized to do business in the State of Texas. Policies shall include terms and provisions indicated below. The Vendor shall provide and make available, at no cost to TXDPS, copies of policy declaration pages and policy endorsements and furnish evidence of the following insurance:

**35.1 Workers' Compensation and Employers' Liability** The Vendor shall maintain Workers' Compensation insurance coverage in accordance with statutory limits and maintain such coverage throughout the life of this Contract. Coverage A – Workers' Compensation (WC) Statutory limits for the State of Texas or for any state the Vendor's employee resides in. Coverage B – Employer's Liability (EL) \$1,000,000 each accident limit / \$1,000,000 Disease Policy / \$1,000,000 Disease each employee limit. The Vendor shall waive all rights against TXDPS, its board, trustees, officers, employees, agents, and volunteers for recovery of damages to the extent they are covered by WC and EL.

**35.2 Business Automobile Liability Insurance** Vendor shall maintain Business Automobile insurance coverage for all owned, hired, and non-owned vehicles, with a minimum combined single limit of \$1,000,000 for each accident for bodily injury and property damage. Such insurance will include coverage for loading and unloading hazards. If Vendor will carry pollutants or hazardous materials, endorsements for Pollution Liability Coverage for Automobile and Motor Carrier Act will be included. The Vendor shall waive all rights against TXDPS, its board, trustees, officers, employees, agents, and volunteers for recovery of damages to the extent they are covered by the business auto liability insurance (or any other applicable auto physical damage coverage.)

**35.3 Commercial General Liability Insurance Coverage** The Vendor shall maintain Commercial General Liability insurance coverage that will include, but not be limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability.

\$1,000,000.00 each occurrence  
\$2,000,000.00 General Aggregate limit,  
\$2,000,000.00 Products and Completed Operations,  
\$1,000,000.00 Personal/Advertising injury,  
\$50,000 Damage to Premises  
\$5,000 Medical Payments

- a) If this insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than sixty (60) months following completion of this Contract and acceptance by TXDPS.
- b) Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to this Contract. Civil Rights Liability shall be provided with the same liability limits. It may be included within the General Liability policy or written on a separate policy.
- c) Liability coverage shall include coverage for damage to property and injury to persons caused by boiler and other equipment malfunction. The policy shall contain an endorsement to include coverage for the property of third parties.
- d) TXDPS shall be named as an additional insured by using endorsement CG2026 or broader.



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- e) The Vendor's coverage will include an endorsement for waiver of subrogation and a 30 Day Notice of Cancellation to TXDPS. The Vendor shall waive all rights against TXDPS, its board, trustees, officers, employees, agents, and volunteers.

- 35.4 Umbrella/Excess Liability** The Vendor may combine its primary and Excess/Umbrella Liability limits to meet the minimum required coverage for any line of coverage; however, if it chooses this option, the coverage will be written at least as broad as those requirements defined above.

\$1,000,000 Minimum Limit

#### **35.5 Additional Provisions**

The Vendor shall ensure that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:

- A. Name TXDPS and its board, trustees, officers, employees, agents, representatives and volunteers as additional insured to all applicable policies.
- B. Waiver of subrogation against TXDPS and its board, trustees, officers, employees, agents, and volunteers, for bodily injury (Including death), property damage or any other loss to all policies.
- C. The Vendor's insurance will be the primary insurance in regards to TXDPS and its board, trustees, officers, employees, agents, and volunteers.
- D. All provisions of this Contract concerning liability, duty and standard of care, together with the indemnification provision, will be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
- E. All Certificates of Insurance will identify the service or product being provided and the name of the responsible party.
- F. No "self-insurance" coverage will be acceptable.
- G. The Vendor's insurance coverage will continue in full force and effect during the term of this Contract. This Contract will not be effective unless acceptable insurance certificates are received by TXDPS by the date scheduled for the execution of this Contract. Proof of insurance policies in a form acceptable to TXDPS will be delivered prior to the effective date of this Contract.
- H. All insurance coverage will be provided by insurance carrier(s) duly licensed, admitted and authorized to do business in Texas. All insurance carriers will be, at a minimum, rated "A" or better by A.M. Best or equivalent rating by a similar insurance rating service.
- I. The Vendor may choose the amount of deductible for any other insurance coverage required (above) to be obtained by the Vendor; however, except as it relates to professional liability insurance, in no event will such deductible for each occurrence exceed five (5) percent of the required yearly aggregate limit of coverage.
- J. The Vendor shall be responsible for the first dollar defense coverage. All general liability and professional liability policies will provide defense in addition to the policy limits.
- K. The limits required herein are the minimum acceptable limits. These limits will not to be construed as being the maximum the Vendor may wish to purchase for its own benefit.
- L. As respect to the total limits of liability required, any combination of primary and/or umbrella / excess liability coverage may satisfy those totals. However, if an umbrella / excess liability policy is used, coverage will be at least as broad as the primary coverage.

#### **36. TERMINATION:**

This Contract may be terminated or cancelled in any of the following circumstances:

- 36.1 TERMINATION BY DEFAULT:** In the event that Vendor fails to carry out or comply with any of the requirements of this Contract (including but not limited to any statement, representation or warranty in this Contract that is false, misleading, or erroneous in any material respect) with TXDPS, TXDPS may notify Vendor of such failure or default in writing and demand that the failure or default be remedied within ten (10)



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- calendar days. In the event that Vendor fails to remedy such failure or default within the ten (10) calendar day period, TXDPS will have the right to cancel this Contract upon ten (10) days written notice.
- 36.2 TERMINATION FOR UNAVAILABILITY OF FUNDS:** This Contract may be terminated as provided in the section herein entitled "Availability of Funds; Legislative Action." The obligations of TXDPS under this Contract are contingent upon the availability of funds to meet TXDPS liabilities hereunder. If these funds become unavailable to TXDPS, TXDPS may immediately terminate this Contract without penalty to or any liability whatsoever on the part of TXDPS, the State of Texas, and the United States.
- 36.3 TERMINATION FOR CONVENIENCE:** This Contract may be terminated, without penalty, by TXDPS, without cause by giving thirty (30) calendar days written notice of such termination to Vendor.
- 36.4 TERMINATION BY MUTUAL AGREEMENT:** This Contract may be terminated upon mutual written agreement.
- 36.5 TERMINATION FOR CAUSE:** This Contract may be terminated by TXDPS if Vendor fails to perform as agreed or is otherwise in default, without the necessity of complying with the requirements in the section herein entitled "Termination by Default." TXDPS will provide Vendor with written notice to terminate this Contract, which termination will become effective immediately upon Vendor's receipt of the notice.
- 36.6 TERMINATION FOR LISTING ON FEDERAL EXCLUDED PARTY LIST, THE TERRORISM LIST (EXECUTIVE ORDER 13224) OR ON THE STATE OF TEXAS DEBARRED VENDOR LIST: TXDPS shall have the absolute right to terminate this Contract without recourse as follows:**
- a) If Vendor becomes listed on the prohibited Vendors list authorized by Executive Order #13224 "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of Treasury, Office of Foreign Assets Control; or
  - b) If Vendor becomes suspended or debarred from doing business with the federal government as listed in the Systems for Award Management List (SAM) maintained by the General Services Administration; or
  - c) If Vendor becomes listed on the State of Texas Debarred Vendor List TXDPS will provide Vendor with written notice to terminate this Contract, which termination will become effective immediately upon Vendor's receipt of the notice.
- 36.7 GENERAL TERMINATION PROVISIONS:**
- The termination of this Contract, under any circumstances whatsoever, will not affect or relieve Vendor from any obligation or liability that may have been incurred pursuant to this Contract, and such cancellation by TXDPS will not limit any other right or remedy available to TXDPS at law or in equity.
- a) This Contract does not grant Vendor a franchise or any other vested property right.
  - b) In the event of termination hereunder, TXDPS shall not be considered in default or breach of this Contract, nor shall it give rise to any liability whatsoever on the part of TXDPS whether such claims of Vendor are for compensation of anticipated profits, unabsorbed overhead, interest on borrowing, or for any other reason.
  - c) Vendor shall, unless mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TXDPS shall be liable for payments limited only to the portion of the work TXDPS authorized in writing and which Vendor has completed, delivered to TXDPS, and which has been accepted by TXDPS. All such work shall have been completed, per this Contract's requirements, prior to the effective date of termination.
  - d) TXDPS reserves the right to recover reasonable costs, fees, expenses, and other amounts or damages available to TXDPS under this Contract or under applicable law, including, but not limited to, attorneys' fees and court costs, if termination is at Vendor's request or if termination is for cause. This right is in addition to any other remedies available to TXDPS under this Contract or applicable law. TXDPS reserves the right to pursue any and all applicable rights and remedies if this Contract is terminated for any reason and TXDPS expressly waives no such rights or remedies.
  - e) If this Contract is terminated for cause or default, TXDPS reserves the right to re-solicit or re-award this Contract to the next best responsive and responsible respondent. TXDPS will not consider the defaulting Vendor in the re-solicitation and TXDPS may not consider the defaulting Vendor in future solicitations for the



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- f) same type of work, unless the specification or scope of work significantly changes
- f) If this Contract is terminated for any reason, TXDPS and the State of Texas shall not be liable to Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination.
- g) However, Vendor may be entitled to the remedies provided in Gov't Code, Chapter 2260.

#### **37 HISTORICALLY UNDERUTILIZED BUSINESS PARTICIPATION REQUIREMENTS:**

The Vendor represents and warrants that it shall comply with the Historically Underutilized Business requirements pursuant to Government Code, Chapter 2261. A HUB Subcontracting Plan (HSP) form must be filled out and returned with the solicitation response to be considered responsive. If the response does not include a HUB Subcontracting Plan, it will be rejected as a material failure to comply with the advertised specifications. If the TXDPS HUB Administrator determines an HSP is required, the instructions and sample forms will be included within this solicitation.

#### **38 CERTAIN BIDS AND CONTRACTS PROHIBITED (Gov't Code Sec. 2155.004):**

This Contract may be terminated, without penalty, by TXDPS, without cause by giving thirty (30) calendar days written notice of such termination to Vendor.

- 38.1** A state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or solicitation on which the bid or contract is based.
- 38.2** A bid or award subject to the requirements of this section must include the following statement:  
Under Section 2155.04, Gov't Code, the Vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
- 38.3** If a state agency determines that an individual or business entity holding a state contract was ineligible to have the contract accepted or awarded under Section 12 herein, the state agency may immediately terminate the contract without further obligation to the Vendor.
- 38.4** This section does not create a cause of action to contest a bid or award of state contract. This section does not prohibit a bidder or vendor from providing free technical assistance to a state agency.

#### **39 APPLICABLE LAW/VENUE:**

This Contract shall be governed and construed in accordance with the laws of the State of Texas. The venue of any suit arising under this Contract is fixed in any court of competent jurisdiction of Travis County, Texas.

#### **40 OWNERSHIP/INTELLECTUAL PROPERTY, INCLUDING RIGHTS TO DATA, DOCUMENTS AND COMPUTER SOFTWARE:**

For the purposes of this Contract, the term "Work" is defined as all reports, statistical analyses, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, research, materials, intellectual property or other property developed, produced, or generated in connection with this Contract. All work performed pursuant to this Contract is made the exclusive property of TXDPS. All right, title and interest in and to said property shall vest in TXDPS upon creation and shall be deemed to be a work for hire and made in the course of the services rendered pursuant to this Contract. To the extent that title to any such work may not, by operation of law, vest in TXDPS, or such work may not be considered a work made for hire, all rights, title and interest therein are hereby irrevocably assigned to TXDPS. TXDPS shall have the right to obtain and to hold in its name any and all patents, copyrights, registrations or such other protection as may be appropriate to the subject matter, and any extensions and renewals thereof. Contractor must give TXDPS and/or the State of Texas, as well as any person designated by TXDPS and/or the State of Texas, all assistance required to perfect the rights defined herein without any charge or expense beyond those amounts payable to Contractor for the services rendered under this Contract.



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**41 TAXES:**

Purchases made for state use are exempt from Texas State Sales Tax and Federal Excise Tax. An Excise Tax Exemption Certificate will be furnished upon written request to the Texas Department of Public Safety.

**42 SUBSTITUTIONS:**

Substitutions are not permitted without written approval of the Texas Department of Public Safety.

**43 NOTICE UNDER GOV'T CODE 2261.252:**

Pursuant to Gov't Code 2261.252, TXDPS may not enter into a contract for the purchase of goods or services with a private vendor if members of the Public Safety Commission or certain positions within the agency including the Executive Director, the General Counsel or the Procurement Director or their covered family members have a financial interest in the Vendor. Any contract found to violate Gov't Code 2261.252 is void.

**44 RECORD RETENTION:**

Vendor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. Vendor shall retain these records for a period of seven years after the expiration of the contract, or until TXDPS or the State Auditor's Office (SAO) is satisfied that all audit and litigation matters are resolved, whichever period is longer. Vendor shall grant access to all books, records, and documents pertinent to the contract to TXDPS, SAO and any federal governmental entity that has authority to review records due to federal funds being spent under the contract.

**45 NOTICE UNDER GOVERNMENT CODE 2252.908:**

Pursuant to Gov't Code 2252.908 TXDPS may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to TXDPS at the time the business entity submits the signed contract to TXDPS. The Texas Ethics Commission has adopted rules and procedures under these provisions:

[https://www.ethics.sta572e.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.sta572e.tx.us/whatsnew/elf_info_form1295.htm)

Any contract found to violate Government Code 2252.908 is void.

## ATTACHMENTS

List of Attachments	Description	
Attachment A	Checklist.....	27
Attachment B	Specifications / Scope of Work.....	29

# ATTACHMENT A

## CHECKLIST

## Checklist

A complete Bid response will consist of the items identified below.

Bidder shall complete this Checklist to confirm the items in its Bid. Place a check next to each item that Bidder is submitting to TXDPS. This Checklist shall be returned with the Bid response.

### Document Name/Description

- Checklist
  
- If NOT submitting through eProcurement System, documents included in this IFB shall be returned with the Bid. Please utilize the Checklist to ensure the Bid is complete. (Page 1 of IFB must be signed)
  
- If submitting through eProcurement System, Bidder Affirmations, Section 21.1 and 21.2, shall be uploaded to the Attachments Tab of eProcurement using the following link:  
<https://eprocure.dps.texas.gov/bsa/login.jsp>
  
- If not submitting through eProcurement System, Bidder Affirmations, Sections 21.1 and 21.2 of this IFB shall be completed and returned with the Bid. -DO NOT LEAVE THESE QUESTIONS BLANK or use N/A. If these sections are not applicable to your company, use the following language:
  - a) Paragraph 21.1 "No owners with at least 25%"
  - b) Paragraph 21.2 "Do not employ a former executive head of any agency")

# ATTACHMENT B

# SPECIFICATIONS

Metal Dormitory Bed Frames  
Specifications and Requirements

## Specifications

All parts which are necessary for the dormitory furniture to be complete and ready for installation or which are considered as standard will be furnished by the contractor. Include dimensioned plans and elevations showing locker layout and relationship to adjacent construction.

Vendor to provide documentation displaying compliance with referenced ASTM and other specifications/certifications required.

Firm Price: Pricing proposed must remain firm for 120 days after the response due date and through the delivery/receipt of the commodity and/or service.

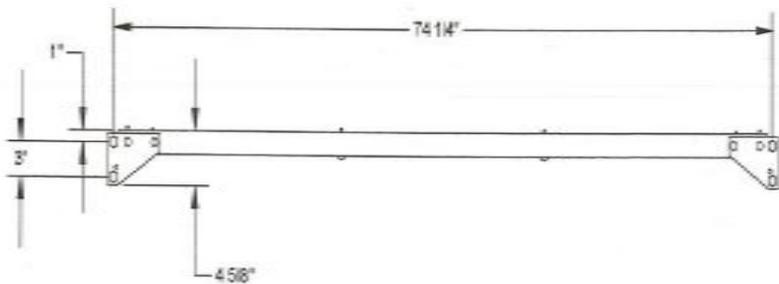
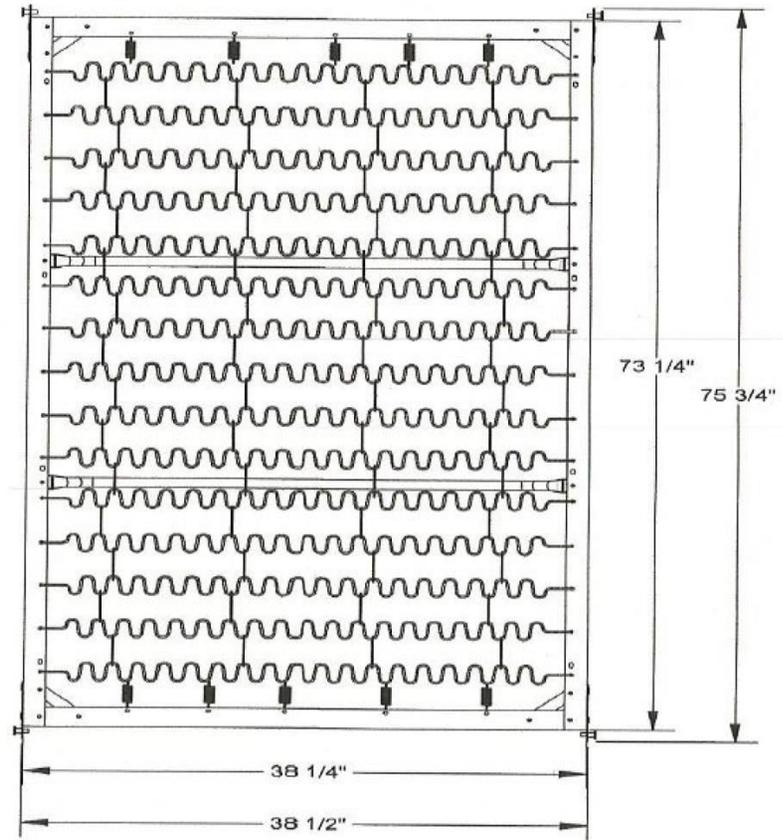
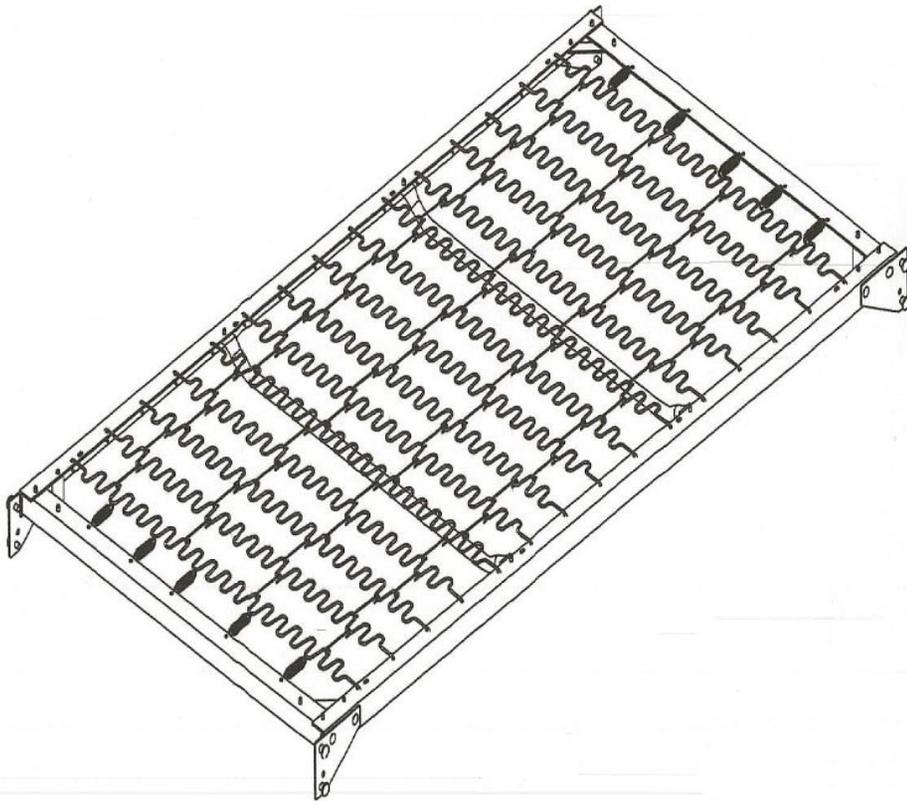
Unit prices must include all shipping, handling/delivery fees and fuel surcharges as F.O.B. destination for delivery to Austin, TX 78752.

**Line 1:** Metal Frame Bed, Twin, Single, Quantity 136

**Referenced Brand/Model No. or Equal:** Legget and Pratt, Model 900 Series, Part No. 470239

1. Posts and Panels:
  - a. Steel Post: 18 Gauge
  - b. Electric Resistance Weld
  - c. Square, 1 ½ inch
  - d. Height: 27 ¼" inches
  - e. Panel Width: 39 inches
  - f. Steel Panel: 20 Gauge Sheet Metal
2. Surface Spring:
  - a. Application Size: 39 inches x 75 inches
  - b. Side Rail: 2 inch x 1 ½ inch x .565 inch
  - c. Cross Arm: 2 inch x 1 ½ inch x .565 inch
  - d. Cross Wire Support: 1 inch Tube
  - e. Wire Gauge: 9 Gauge, No Sag Wire Connected by 13 Gauge Links with 12 Gauge 16 Turn Helical Springs.
3. Finish: Powder Coated
4. Post Cap:
5. Color: Black

Bed Frame Illustrations:



TXDPS Solicitation No. 405-16-B002054  
Metal Dormitory Bed Frames  
Specifications and Requirements

**Bed Frame Support Panel Illustration:**

